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L A W Y E R S

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC, Debtors.

**Affects:**

- .. All Debtors
- × USA Commercial Mortgage Company
- .. USA Capital Realty Advisors, LLC
- .. USA Capital Diversified Trust Deed Fund, LLC
- .. USA Capital First Trust Deed Fund, LLC
- .. USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**REPLY IN SUPPORT OF JOINDER  
AND SUPPLEMENT TO  
OBJECTION TO ADMINISTRATIVE  
EXPENSE CLAIM OF SIERRA  
LIQUIDITY FUND**

Hearing: May 31, 2007  
Time: 9:30 a.m.

The USACM Liquidating Trust ("USACM Trust") replies to the response filed by  
Sierra Liquidity Fund, L.L.C. [Dkt. 3743].

Sierra's response essentially ignores the points made in the USACM Trust's  
joinder:

- The Sierra claim is not based on a transaction with USACM;
- Sierra did not provide an actual, necessary benefit to the USACM Estate, as required for an expense of administration;
- At most, Sierra has a pre-petition unsecured claim that is barred unless the assigning direct lenders timely filed unsecured claims; and
- Sierra has not proved its damages claim; so the USACM Trust and its constituents should not be adversely affected.

Because Sierra fails to answer these points, we simply respond to two additional issues raised in Sierra's response.

**I. SIERRA IMPROPERLY SEEKS TO EXTEND THE BAR DATE FOR EXPENSES OF ADMINISTRATION**

Pursuant to the confirmed Plan of Reorganization, the deadline for filing an expense of administration, other than for professional fees, was thirty days after the March 12, 2007 Effective Date, or April 11, 2007.

Sierra's response at page 3, lines 4 through 8 purports to expand its expense of administration based upon its purchase of additional Direct Lender claims. If the assignee Direct Lenders did not timely assert an expense of administration, Sierra should not have an extension of the deadline, particularly as a claims speculator, to assert additional expenses of administration.

**II. SIERRA IMPROPERLY SEEKS TO USE THIS DISPUTE FOR AN ADVISORY OPINION**

As one parses the Sierra response, the argument appears to be that USACM as servicer wanted to maximize default interest and late fees, by not collecting loans, so it could collect such amounts from the collateral before payment to the Direct Lenders of principal and interest. Sierra Liquidity has no proof that USACM ever took such a position and no proof that such a position motivated any act by USACM as servicer (and Mesirow disclaims any such intent). Sierra then acknowledges its real dispute is with

1 Compass Partners, LLC as successor loan servicer over whether default interest and late  
2 fees may be collected ahead of principal and interest owed on Direct Loans. With respect,  
3 this is simply a request for the Court to enter an advisory opinion in a potential dispute  
4 between Sierra and Compass. This Court is well aware that it lacks the jurisdiction to  
5 issue advisory opinions, much less to decide disputes between non-debtors in this post-  
6 confirmation context. Accordingly, the court should decline Sierra's effort.

7  
8 **Conclusion**

9 All in all, Sierra has not met its burden of establishing an administrative expense  
10 claim, legally or factually, for the reasons set forth here and in the USACM reply. Sierra's  
11 administrative expense claim motion should be denied.

12 DATED: May 25, 2007

13 **LEWIS AND ROCA LLP**

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15 By: /s/ RC (#6593)

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Copy of the foregoing served on May 25, 2007, via email where an email address is listed, and if no email address is listed, then by first class U.S. Mail, postage paid, addressed to:

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